

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No.: 3:04-CR-82-TAV-HBG
)
 CHARLES DEXTER MITCHELL,)
)
 Defendant.)

ORDER

This criminal case is before the Court on defendant's pro se motion to reconsider under Federal Rule of Civil Procedure 60(b) [Doc. 52]. On June 15, 2016, this Court denied defendant's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 [Doc. 51]. Defendant now asks the Court to reconsider that order in light of the Sixth Circuit's decision in *United States v. Stitt*, 860 F.3d 854 (6th Cir. 2017) (en banc), wherein the court held that a conviction for aggravated burglary in Tennessee did not qualify as a violent felony for purposes of the Armed Career Criminal Act ("ACCA"). However, the Supreme Court unanimously reversed that decision in *United States v. Stitt*, 139 S. Ct. 399 (2018). Under that case, petitioner's burglary convictions are still predicate offenses under the ACCA. Therefore, defendant has not presented any basis upon which this Court may reconsider its denial of defendant's § 2255 motion, and his motion to reconsider [Doc. 52] is **DENIED**.

IT IS SO ORDERED.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE